

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA)
Plaintiff,)
v.) No. 4:20 MJ 7179 SPM
MARCUS MARLVIN HUNT)IMMEDIATE
Defendant.)CONSIDERATION
)REQUESTED

MOTION TO DISMISS CRIMINAL COMPLAINT

Defendant MARCUS MARLVIN HUNT, through his attorneys, Lee T. Lawless, Federal Public Defender, and Rachel M. Korenblat, Assistant Federal Public Defender, and moves this Court for dismissal of the Criminal Complaint in the above cause.

“The Complaint is a written statement of the essential facts constituting the offense charged.” Fed.R.Crim.P. 3. The Complaint filed in the present case is facially invalid as it fails to state the facts upon which the offense set forth in Title 18 U.S.C. §842(p)(2)(A) can be charged.

While there is no Eighth Circuit Pattern Instruction with regard to this code section, the verdict director utilized in *United States v. Amawi* 2008 WL 686871, sets forth the offense's two elements. First, that the defendant distributed by any means information pertaining to in whole or in part the manufacture or the use of an explosive or destructive device and second, the defendant acted with the intent that the information be

used for, or in furtherance of activity that constitutes a federal crime of violence... (see attachment).

The Complaint and supporting affidavit filed in this case fails to state any facts which would constitute acting with intent that any information posted on the internet be used in furtherance of a federal crime of violence.

The information contained in the Criminal Complaint which is attributed to Marcus Marvin Hunt is no different in quantity or quality from that which exists all over the internet. There is no claim that he acted with the requisite intent and there are no facts in the affidavit in support of that. Given the facial invalidity of the Complaint, Defendant respectfully requests that the Complaint be dismissed immediately.

Respectfully submitted,

/s/Lee T. Lawless
LEE T. LAWLESS
Federal Public Defender

/s/ Rachel M. Korenblat
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ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on June 4, 2020, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon Sirena Wissler, Assistant United States Attorney.

/s/ Lee T. Lawless
LEE T. LAWLESS
Federal Public Defender

/s/Rachel M. Korenblat
RACHEL M. KORENBLAT
Assistant Federal Public Defender